

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,)	
)	
PLAINTIFF,)	
)	
vs.)	CASE NO. 2:06-cv-1093-WKW
)	
CITY OF MONTGOMERY, ALABAMA,)	
)	
DEFENDANT.)	

PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND EXPENSES

Comes now the Plaintiff, Eddie J. Haynes, and moves the Court under 42 U.S.C. §12117 and Rule 54(d)(2) of the Federal Rules of Civil Procedure for an Order requiring the Defendant City of Montgomery, Alabama to pay the reasonable attorney's fees and expenses for services rendered and expenses incurred by counsel for the Plaintiff in this action, in the total amount of \$100,622.07 (\$94,045.00 for attorney's fees and \$6,577.07 for expenses). In support of this motion, Plaintiff avers as follows:

1. On March 27, 2008 the jury rendered its verdict in this cause, finding the Defendant violated the Plaintiff's rights under the Americans with Disabilities Act and finding the Plaintiff should be awarded damages in the total amount of \$360,000.
2. After the verdict the Court orally ordered, and ordered in writing on April 3, 2008, that Plaintiff file his motion for attorney's fees on or before April 18, 2008.
3. In support of this motion, Plaintiff submits as Exhibit A an itemization of the time and services and expenses for which this award is requested.

4. In additional support of this motion, Plaintiff submits the Affidavit of Gerald L. Miller as Exhibit B, the Affidavit of Keith E. Brashier as Exhibit C, and the Decelerations of M. Wayne Sabel and Jimmy Jacobs as Exhibits D and E, respectively.

5. Plaintiff's request is for compensation at the rate of \$250 per hour for work performed on this case and in connection with this fee application by Gerald L. Miller and \$175 per hour for work performed on this case and in connection with this application by Keith E. Brashier. This request for attorney's fees and expenses is reasonable and is based on the prevailing rates in the market for the kind and quality of services furnished.

Wherefore, Plaintiff respectfully requests that the Court award the fees and expenses requested herein, and grant Plaintiff such other and further relief to which he is justly entitled.

/s/ Gerald L. Miller
GERALD L. MILLER (MIL039)
/s/ Keith E. Brashier
KEITH E. BRASHIER (BRA113)
Attorneys for Plaintiff

OF COUNSEL:

REDDEN, MILLS & CLARK, LLP
505 North 20th Street
940 Financial Center
Birmingham, Alabama 35203
(205) 322-0457

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of April, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Allison H. Highley
Kimberly O. Fehl
Assistant City Attorneys
City of Montgomery
P.O. Box 1111
Montgomery, Alabama 36101-1111

/s/ Gerald L. Miller
OF COUNSEL

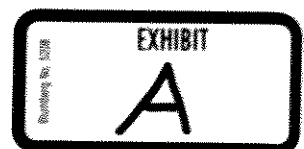
REDDEN, MILLER & OLARK, LLP
 505 - 20th Street North
 Suite 940 The Financial Center
 Birmingham, AL 35203-2605

April 17, 2008

Eddie Haynes
 AL

In Reference To: Eddie Haynes v. City of Montgomery
 Fire Department
 GLM
 Professional Services

			Hours	Rate	Amount
5/6/2005	GLM	Telephone conference with Mr. Haynes	0.50	\$250.00/hr	\$125.00
5/11/2005	GLM	Conference with Mr. Haynes and preparation of letter	1.50	\$250.00/hr	\$375.00
5/12/2005	GLM	Telephone conference with Mr. Haynes; review and revision of letter	0.40	\$250.00/hr	\$100.00
5/13/2005	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
5/20/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
6/13/2005	GLM	Telephone conference with Mr. Haynes and preparation of memo	0.30	\$250.00/hr	\$75.00
6/15/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
6/16/2005	GLM	Review of medical records from Eddie Haynes	0.30	\$250.00/hr	\$75.00
	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
6/28/2005	GLM	Telephone conference with Mr. Haynes	0.30	\$250.00/hr	\$75.00
6/30/2005	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
7/5/2005	GLM	Telephone conference with Mr. Haynes	0.30	\$250.00/hr	\$75.00
7/12/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00



			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
7/13/2005	GLM	Review of fax from Mr. Haynes; telephone conference with Mr. Haynes	0.50	\$250.00/hr	\$125.00
7/14/2005	GLM	Telephone conference with newsreporter	0.30	\$250.00/hr	\$75.00
7/25/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
	GLM	Review of info sent by Mr. Haynes	0.20	\$250.00/hr	\$50.00
7/27/2005	GLM	Telephone conference with Mr. Haynes	0.30	\$250.00/hr	\$75.00
	GLM	Prepare letter to Walter Byars	0.20	\$250.00/hr	\$50.00
7/29/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
8/4/2005	GLM	Telephone conference with Mr. Haynes; review of letter from City; review of file; preparation of letter to Mr. Haynes	1.00	\$250.00/hr	\$250.00
8/5/2005	GLM	Review and revision of letter and authorizations	0.20	\$250.00/hr	\$50.00
8/9/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
	GLM	Preparation of letter to Kimberly Fehl	0.20	\$250.00/hr	\$50.00
8/11/2005	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
8/16/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
8/31/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00

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			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
9/1/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
9/7/2005	GLM	Review of documents sent by Mr. Haynes; telephone conference with Mr. Haynes	0.60	\$250.00/hr	\$150.00
9/22/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
11/15/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
	GLM	Preparation of letter to City	0.50	\$250.00/hr	\$125.00
11/21/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
11/22/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
11/28/2005	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
11/29/2005	GLM	Review of materials received from Mr. Haynes	0.50	\$250.00/hr	\$125.00
1/11/2006	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
1/24/2006	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
3/23/2006	GLM	Reviewing retirement plan information received from Mr. Haynes	0.50	\$250.00/hr	\$125.00
4/19/2006	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
5/11/2006	GLM	Preparation of letter to Chief McKee.	0.50	\$250.00/hr	\$125.00
5/18/2006	GLM	Review of letter from City; Attempts to call Mr. Haynes; Review of file.	0.50	\$250.00/hr	\$125.00
5/22/2006	GLM	Telephone conference with Mr. Haynes (2); Preparation of letter to Kimberly Fehl.	0.70	\$250.00/hr	\$175.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
5/25/2006	GLM	Telephone conversation w/Mr. Haynes	0.10	\$250.00/hr	\$25.00
5/29/2006	GLM	Telephone conversations with Mr. Haynes and preparation of letter to City Attorney	0.60	\$250.00/hr	\$150.00
6/8/2006	GLM	Telephone conference with Mr. Haynes.	0.30	\$250.00/hr	\$75.00
8/2/2006	GLM	Preparation of letter and Amended EEOC Charge	0.50	\$250.00/hr	\$125.00
9/13/2006	GLM	Telephone conference with Ollie Croom of EEOC	0.20	\$250.00/hr	\$50.00
9/21/2006	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
10/2/2006	GLM	Telephone conference with Mr. Haynes re: progress of case	0.10	\$250.00/hr	\$25.00
10/3/2006	GLM	Telephone conference with Ollie Croom of EEOC	0.70	\$250.00/hr	\$175.00
10/4/2006	GLM	Telephone conference with Mr. Haynes re: requesting Right to Sue	0.10	\$250.00/hr	\$25.00
	GLM	Preparation of letter to EEOC	0.10	\$250.00/hr	\$25.00
10/20/2006	GLM	Telephone conference with Mr. Haynese	0.20	\$250.00/hr	\$50.00
11/17/2006	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
11/27/2006	GLM	Review of information from Mr. Haynes in preparation for filing suit	2.00	\$250.00/hr	\$500.00
	GLM	Review of information; obtaining information re: Lee Hartwell; telephone conference with Mr. Haynes	1.00	\$250.00/hr	\$250.00
11/28/2006	GLM	Telephone conference with Mr. Haynes	0.10	\$250.00/hr	\$25.00
12/5/2006	GLM	Research and preparation of complaint	4.50	\$250.00/hr	\$1,125.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
12/6/2006	GLM	Research on medical inquires and qualification standards claims	1.50	\$250.00/hr	\$375.00
	GLM	Review and revision of complaint	0.30	\$250.00/hr	\$75.00
12/7/2006	GLM	Review and revision of complaint	0.20	\$250.00/hr	\$50.00
	GLM	Telephone conference with Mr. Haynes re: filing of complaint	0.10	\$250.00/hr	\$25.00
1/24/2007	GLM	Telephone conference with Drenda re: Report of the Parties; review of related info on court's website	0.40	\$250.00/hr	\$100.00
1/29/2007	GLM	Telephone conference with Mr. Haynes re: status of case	0.20	\$250.00/hr	\$50.00
2/5/2007	GLM	Telephone conference with Mr. Haynes re: status	0.10	\$250.00/hr	\$25.00
2/8/2007	GLM	Preparation of letter to Mr. Haynes regarding scheduling order	0.20	\$250.00/hr	\$50.00
4/3/2007	GLM	Telephone conference with Mr. Haynes re: status of case	0.30	\$250.00/hr	\$75.00
5/9/2007	GLM	Telephone conference with Mr. Haynes re: status of case	0.20	\$250.00/hr	\$50.00
5/17/2007	GLM	Study of file and documents to prepare initial disclosures	3.00	\$250.00/hr	\$750.00
5/18/2007	GLM	Telephone conference with Mr. Haynes re: initial disclosures; preparation of initial disclosures, interrogatories and request for production, letter to EEOC and Motion for HIPAA Protective Order	5.50	\$250.00/hr	\$1,375.00
5/21/2007	GLM	Review and revision of initial disclosures and discovery requests	0.40	\$250.00/hr	\$100.00
5/22/2007	GLM	Review of Order; preparation of message to Ms. Fehl re: HIPAA protective order	0.20	\$250.00/hr	\$50.00
8/14/2007	GLM	Telephone conference with Mr. Haynes re: new info	0.10	\$250.00/hr	\$25.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
8/29/2007	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
8/30/2007	GLM	Review of Defendant's discovery responses and documents produced by Defendant	4.50	\$250.00/hr	\$1,125.00
8/31/2007	GLM	Telephone conference with Mr. Haynes and Ms. Kessler	0.50	\$250.00/hr	\$125.00
	GLM	Preparation of letter	0.20	\$250.00/hr	\$50.00
9/4/2007	GLM	Telephone conferences with Dr. Turner's office and City Attorney's office	0.30	\$250.00/hr	\$75.00
9/11/2007	GLM	Telephone conference with Mary Kessler	0.20	\$250.00/hr	\$50.00
	GLM	Preparation of letter to Mary Kessler	0.40	\$250.00/hr	\$100.00
9/12/2007	GLM	Telephone conference with Allison Highley re: Dr. Turner depo	0.10	\$250.00/hr	\$25.00
	GLM	Preparation of deposition notice and confirming letter	0.20	\$250.00/hr	\$50.00
	GLM	Preparation for Deposition of Dr. Turner	1.00	\$250.00/hr	\$250.00
9/21/2007	GLM	Preparation for deposition of Dr. Michael Turner	5.00	\$250.00/hr	\$1,250.00
9/24/2007	GLM	Telephone conference with Mr. Haynes re: deposition of Dr. Turner; preparation for deposition of Dr. Turner	7.00	\$250.00/hr	\$1,750.00
9/25/2007	GLM	Preparation for deposition of Dr. Michael Turner	1.00	\$250.00/hr	\$250.00
	GLM	Deposition of Dr. Michael Turner; travel to Montgomery and return	6.00	\$250.00/hr	\$1,500.00
9/26/2007	GLM	Telephone conference with Mr. Haynes re: Deposition of Dr. Turner	0.40	\$250.00/hr	\$100.00
9/28/2007	GLM	Telephone conference with Dr. Mary Kessler	0.30	\$250.00/hr	\$75.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
10/5/2007	GLM	Preparation of Rule 26 Expert Disclosures; telephone conference with court reporter; review of Dr. Turner's depo	1.50	\$250.00/hr	\$375.00
10/6/2007	GLM	Telephone conference with Dr. Kessler's office re: expert report; review of Dr. Kessler's report	0.50	\$250.00/hr	\$125.00
10/22/2007	GLM	Preparation of Response to Request for Admissions and Second Request for Production	2.00	\$250.00/hr	\$500.00
10/23/2007	GLM	Review and revision of Response to Request for Admissions and Second Request for Production	0.30	\$250.00/hr	\$75.00
10/24/2007	GLM	Telephone conference with Mr. Haynes re: status of case	0.20	\$250.00/hr	\$50.00
11/7/2007	GLM	Telephone conference with Mr. Haynes re: progress of case	0.50	\$250.00/hr	\$125.00
12/4/2007	GLM	Preparation of letter to opposing counsel re: overdue discovery responses	0.20	\$250.00/hr	\$50.00
	GLM	Summarizing deposition of Dr. Turner	2.30	\$250.00/hr	\$575.00
	GLM	Research of summary of issues	1.50	\$250.00/hr	\$375.00
12/5/2007	GLM	Telephone conference with Mr. Haynes re: summary judgment motion and response	0.30	\$250.00/hr	\$75.00
	GLM	Preparation of Declarations of Eddie Haynes and Dr. Mary House Kessler	4.40	\$250.00/hr	\$1,100.00
12/6/2007	GLM	Research and preparation of summary judgment materials	3.00	\$250.00/hr	\$750.00
12/7/2007	GLM	Preparation of Motion to Compel and for Extension of Time	1.00	\$250.00/hr	\$250.00
	GLM	Preparation of Summary Judgment Brief	4.50	\$250.00/hr	\$1,125.00
12/9/2007	GLM	Research and preparation of Summary Judgment Brief	4.00	\$250.00/hr	\$1,000.00

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			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
12/10/2007	GLM	Research and preparation of Summary Judgment Brief	9.00	\$250.00/hr	\$2,250.00
12/11/2007	GLM	Research	3.00	\$250.00/hr	\$750.00
	GLM	Trip to Montgomery and return; motion hearing	4.00	\$250.00/hr	\$1,000.00
12/12/2007	GLM	Research and preparation of Brief	4.50	\$250.00/hr	\$1,125.00
12/13/2007	GLM	Preparation of Summary Judgment Brief	5.00	\$250.00/hr	\$1,250.00
12/14/2007	GLM	Telephone conference with Kim Fell re: settlement conference, mediation and discovery issues	0.20	\$250.00/hr	\$50.00
	GLM	Preparation of summary judgment brief	1.30	\$250.00/hr	\$325.00
12/18/2007	GLM	Research and preparation of Brief	4.00	\$250.00/hr	\$1,000.00
12/28/2007	GLM	Telephone conference with Mr. Haynes	0.20	\$250.00/hr	\$50.00
1/2/2008	GLM	Review and revision of summary judgment brief; telephone conference with Mr. Haynes; review of documents sent by Eddie Haynes	1.60	\$250.00/hr	\$400.00
1/3/2008	GLM	Review and revision of summary judgment brief; telephone conference with Dr. Kessler re: her Declaration; conference with Dr. Kessler; travel to Homewood and return.	1.00	\$250.00/hr	\$250.00
1/4/2008	GLM	Conference with Mr. Haynes re: his Summary Judgment Declaration	1.50	\$250.00/hr	\$375.00
1/22/2008	GLM	Telephone conference with Mr. Haynes re: emotional damage and status of discovery	0.20	\$250.00/hr	\$50.00
1/29/2008	GLM	Review of Defendants Reply Brief	0.50	\$250.00/hr	\$125.00
2/4/2008	GLM	Preparation of draft pretrial order	2.00	\$250.00/hr	\$500.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
2/15/2008	GLM	Telephone conference with Mr. Haynes re: status of case and new info	0.20	\$250.00/hr	\$50.00
2/20/2008	KB	Traveled to Montgomery and attended the pretrial conference before Judge Watkins.	4.50	\$175.00/hr	\$787.50
	GLM	Pretrial conference; Travel to Montgomery for pretrial and return (split with Little v. Paul's).	2.40	\$250.00/hr	\$600.00
2/21/2008	GLM	Telephone conference with Mr. Haynes regarding status of case and witnesses for trial; Review of file to prepare witness and exhibit lists.	2.70	\$250.00/hr	\$675.00
2/22/2008	GLM	Telephone conference with Mr. Haynes and review of file and documents for preparation of exhibit list.	3.20	\$250.00/hr	\$800.00
2/25/2008	GLM	Preparation of witness and exhibits lists and deposition designations.	6.00	\$250.00/hr	\$1,500.00
2/26/2008	KB	Conference with Mr. Miller.	1.00	\$175.00/hr	\$175.00
	GLM	Trial Preparation	3.00	\$250.00/hr	\$750.00
	GLM	Research/search for proposed jury instructions.	2.00	\$250.00/hr	\$500.00
2/27/2008	GLM	Preparation of Objections to Defendant's Exhibit List. Telephone conference with Dr. Kessler.	2.20	\$250.00/hr	\$550.00
2/29/2008	GLM	Preparation of Objections to Defendant's Exhibits and jury instructions and voir dire.	3.50	\$250.00/hr	\$875.00
3/1/2008	GLM	Preparation of proposed jury instructions; verdict forms and voir dire.	5.00	\$250.00/hr	\$1,250.00
3/3/2008	GLM	Preparation of voir dire, jury instructions, and verdict forms	2.00	\$250.00/hr	\$500.00
	GLM	Trial prep	2.50	\$250.00/hr	\$625.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
3/4/2008	KB	Conference with Mr. Miller; Left message for Dr. Palmer; Telephone conference with Lee Hartwell; Summarized notes.	0.50	\$175.00/hr	\$87.50
	GLM	Trial preparation and preparation of jury charges and motions in limine, including research.	6.50	\$250.00/hr	\$1,625.00
3/5/2008	GLM	Trial preparation	6.30	\$250.00/hr	\$1,575.00
	KB	Conference with Mr. Miller; interviewed witnesses via telephone and prepared witness summaries.	2.00	\$175.00/hr	\$350.00
3/6/2008	KB	Telephone conference interviews of witnesses and preparation of summaries.	2.00	\$175.00/hr	\$350.00
	GLM	Telephone conference with Allison Highley re: settlement/mediation	0.20	\$250.00/hr	\$50.00
	GLM	Trial Preparation	6.40	\$250.00/hr	\$1,600.00
3/7/2008	KB	Office conference with Mr. Haynes and Mr. Miller; Interviewed witnesses and summarized interviews.	2.00	\$175.00/hr	\$350.00
	GLM	Conference with Mr. Haynes.	4.50	\$250.00/hr	\$1,125.00
	GLM	Trial preparation	1.50	\$250.00/hr	\$375.00
3/11/2008	KB	Telephone interviews with witnesses; summarized interviews	0.50	\$175.00/hr	\$87.50
	GLM	Research, review of Defendant's pleadings, and trial preparation	3.00	\$250.00/hr	\$750.00
3/12/2008	GLM	Trial Preparation (review of Court's Opinion, Defendant's Requested Charges and witness interviews).	1.20	\$250.00/hr	\$300.00
3/13/2008	KB	Interviewed witnesses and summarized interviews; Conference with Mr. Miller; Conference with Judge Watkins office.	1.50	\$175.00/hr	\$262.50

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
3/13/2008	GLM	Telephone conference with Allison Highley re: exhibits and Dr. Turner	0.20	\$250.00/hr	\$50.00
	GLM	Preparation of Responses to Motion in Limine	3.00	\$250.00/hr	\$750.00
3/14/2008	KB	Conference with Mr. Miller; Review of notes and file; Telephone conference with Eddie Haynes.	1.00	\$175.00/hr	\$175.00
	GLM	Trial Preparation (Preparation of Response to Motion in Limine, preparation of Response to Objections, preparation of Stipulations, preparation of subpoenas and exhibits, telephone calls with Allison Highley).	7.50	\$250.00/hr	\$1,875.00
3/15/2008	GLM	Trial Preparation (review of Turner Deposition and preparation for direct and cross-exam of Dr. Turner.	7.50	\$250.00/hr	\$1,875.00
3/16/2008	GLM	Trial Preparation (preparation for exam of Dr. Turner, Dr. Palmer and Dr. Kessler).	3.00	\$250.00/hr	\$750.00
3/17/2008	KB	Interviewed witnesses in Montgomery.	6.30	\$175.00/hr	\$1,102.50
	GLM	Interviewed witnesses in Montgomery.	6.30	\$250.00/hr	\$1,575.00
	GLM	Review and revision of Plaintiff's Response to Plaintiff's Objections.	0.50	\$250.00/hr	\$125.00
	GLM	Review of pleadings filed by Plaintiff.	0.80	\$250.00/hr	\$200.00
	GLM	Trial Preparation	1.00	\$250.00/hr	\$250.00
3/18/2008	KB	Conference with Mr. Miller; Telephone conferences with witnesses; Telephone conference with Mr. Haynes.	1.00	\$175.00/hr	\$175.00
	GLM	Trial Preparation	8.00	\$250.00/hr	\$2,000.00
3/19/2008	KB	Interviewed witnesses in Montgomery; attended hearing before Judge Watkins.	8.00	\$175.00/hr	\$1,400.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
3/19/2008	GLM	Hearing in Montgomery; travel; trial preparation.	6.50	\$250.00/hr	\$1,625.00
3/20/2008	GLM	Telephone conference with Mr. Haynes and Dr. Kessler; trial preparation.	6.00	\$250.00/hr	\$1,500.00
	KB	Office conference with Mr. Miller and Mrs. Boley.	0.10	\$175.00/hr	\$17.50
3/21/2008	KB	Traveled to Montgomery to serve subpoenas, deliver exhibit binders, and retrieve juror questionnaires.	5.00	\$175.00/hr	\$875.00
	GLM	Trial Preparation	5.50	\$250.00/hr	\$1,375.00
	GLM	Reviewing juror questionnaires	2.00	\$250.00/hr	\$500.00
3/22/2008	KB	Review of juror questionnaires; Conference with Mr. Miller.	3.00	\$175.00/hr	\$525.00
	GLM	Reviewing juror questionnaires and discussions with Bill Clark and Keith Brashier.	3.70	\$250.00/hr	\$925.00
	GLM	Review of opening statement	0.50	\$250.00/hr	\$125.00
3/23/2008	GLM	Trial Preparation	1.50	\$250.00/hr	\$375.00
3/24/2008	KB	Traveled to Montgomery to attend trial; trial and trial preparation.	9.00	\$175.00/hr	\$1,575.00
	GLM	Travel to Montgomery for trial	2.00	\$250.00/hr	\$500.00
	GLM	Jury selection and opening statements	7.00	\$250.00/hr	\$1,750.00
	GLM	Preparation for next day of trial	3.50	\$250.00/hr	\$875.00
3/25/2008	KB	Trial and trial preparation	8.00	\$175.00/hr	\$1,400.00
	GLM	Preparation for next day of trial	3.00	\$250.00/hr	\$750.00

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			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
3/25/2008	GLM	Trial	9.00	\$250.00/hr	\$2,250.00
3/26/2008	KB	Trial and trial preparation	8.00	\$175.00/hr	\$1,400.00
	GLM	Preparation for next day of trial (review of jury charges and preparation of closing statement)	5.00	\$250.00/hr	\$1,250.00
	GLM	Trial	8.00	\$250.00/hr	\$2,000.00
3/27/2008	KB	Attended trial and returned to Birmingham.	7.00	\$175.00/hr	\$1,225.00
	GLM	Trial	5.50	\$250.00/hr	\$1,375.00
	GLM	Travel from Montgomery to Birmingham	1.50	\$250.00/hr	\$375.00
3/31/2008	GLM	Telephone conference with Mr. Haynes re: reinstatement and retirement issues.	0.30	\$250.00/hr	\$75.00
4/7/2008	GLM	Research for Motion for Equitable Relief and Attorney's Fees	2.00	\$250.00/hr	\$500.00
4/8/2008	GLM	Preparation of Motion for Attorney's Fees and Expenses and Affidavit and Memorandum in Support.	3.70	\$250.00/hr	\$925.00
4/9/2008	GLM	Preparation of Memorandum in support of motion for attorney's fees and expenses.	3.50	\$250.00/hr	\$875.00
	GLM	Preparation of Motion for Equitable Relief and Memorandum in Support Thereof.	4.00	\$250.00/hr	\$1,000.00
4/10/2008	GLM	Telephone conference with Jimmy Jacobs re: affidavit in support of fee petition.	0.30	\$250.00/hr	\$75.00
	GLM	Research on issue of equitable relief for motion and memorandum.	6.00	\$250.00/hr	\$1,500.00
4/11/2008	GLM	Telephone conference with Mark Sabel regarding affidavit for attorney's fee application.	0.40	\$250.00/hr	\$100.00

			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
4/11/2008	GLM	Research and preparation of Memorandum in Support of Motion for Equitable Relief.	5.00	\$250.00/hr	\$1,250.00
For professional services rendered				397.30	\$94,045.00
Additional Charges :					
					<u>Price</u>
7/25/2005	Copies/Fax	Invoice # 2654			\$9.00
12/7/2006	Postage for complaint				\$4.88
9/25/2007	Deposition fee for Dr. Michael Turner (deposit)				\$350.00
	Reimb mileage to Montgomery & return GLM				\$27.00
10/11/2007	Professional Services - Mary House Kessler, Ph.D.				\$1,000.00
10/27/2007	South Eastern Industrial & Family Medicine - Deposition fee for Dr. Michael Turner (final bill)				\$525.00
12/7/2007	Westlaw research expense				\$36.42
12/11/2007	Reimb Mileage to Montgomery & return				\$26.25
1/11/2008	FedEx - Invoice No: 2-493-61603				\$17.35
2/20/2008	Trip to Montgomery & return				\$27.00
3/17/2008	Reimb of Mileage to GLM - To Montgomery & Return				\$36.00
3/18/2008	Retainer for Dr. Clemmie Palmer				\$2,000.00
3/19/2008	Reimb KEB - Mileage - Montgomery/Hope Hull				\$31.20
	Reimb to GLM - Travel to Montgomery & Return				\$26.25
3/22/2008	Reimb to KEB - Mileage to Montgomery				\$27.30

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	<u>Price</u>
3/24/2008 Montgomery Brewing Company - Dinner during trial.	\$38.39
Reimb Travel to Montgomery & Return (03/24-27/08)	\$27.00
3/25/2008 The Olive Room - Dinner during trial.	\$36.90
3/26/2008 Martins Restaurant - Dinner during trial.	\$20.35
3/28/2008 Best Western - Hotel Room for Gerald Miller	\$289.89
Best Western - Hotel Room for Keith Brashier	\$289.89
Supplies for Exhibit Binders (\$44.34 - Binders and \$150 for tabs)	\$194.34
3/31/2008 Dr. Clemmie Palmer (Expert witness fee - final bill (balance)	\$183.66
Professional Services - Re: Mary House Kessler, Ph.D. - Inv No: 07024	\$1,353.00
	<u>Amount</u>
Total additional charges	\$6,577.07
Total amount of this bill	\$100,622.07

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,

PLAINTIFF,

vs.

CITY OF MONTGOMERY, ALABAMA,

DEFENDANT.

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)CASE NO. 2:06-cv-1093-WKW

AFFIDAVIT OF GERALD L. MILLER

STATE OF ALABAMA)

JEFFERSON COUNTY)

Before me, the undersigned, a notary public in and for said county and said state, personally appeared Gerald L. Miller, who, after being by me first duly sworn, did depose and state as follows:

1. My name is Gerald L. Miller. I am a partner with the law firm of Redden, Mills & Clark in Birmingham, Alabama. I received my JD Degree from Cumberland School of Law of Samford University in 1980, and I am licensed to practice to law in the State of Alabama. I have been so licensed since September, 1980. Additionally, I am admitted to practice in the United States Supreme Court, the United States Court of Appeals for the Eleventh Circuit, and the District Courts for the Northern and Middle Districts of Alabama. I have actively practiced law for over 27 years, and I have practiced in the area of



employment discrimination for at least 25 years. During this time I have handled hundreds of employment discrimination suits from the administrative level up through appeals before the Eleventh Circuit. These cases have primarily consisted of individual suits, but I have been co-counsel on one employment discrimination class action suit and lead counsel on another discrimination case involving ten plaintiffs. Most of my representation has been on behalf of plaintiffs, but I have also represented defendants in employment discrimination suits and administration proceedings. I am over 21 years of age, and I have personal knowledge of all matters set forth herein.

2. I represent the Plaintiff, Eddie J. Haynes, in this case. My associate, Keith E. Brashier, began to assist me in late February, 2008 for trial preparation and to assist me in the trial of the case. I began representing Mr. Haynes with respect to this matter on May 6, 2005 when Mr. Haynes called me and discussed his problems with his employment with the City of Montgomery, Alabama, having been placed on involuntary leave on March 15, 2005. After meeting with Mr. Haynes, I began attempts to resolve the matter by correspondence with the Montgomery City Attorney's Office. I continued to advise Mr. Haynes and to attempt to resolve the matter with the City Attorney's Office, and advise Mr. Haynes about the EEOC process throughout the remainder of 2005 and 2006 until Mr. Haynes received his Right to Sue Notice from the EEOC in the latter part of 2006. I then prepared and filed a Complaint in this Court on behalf of Mr. Haynes under the Americans with Disabilities Act in early December, 2006. Thereafter, I continued my representation of Mr. Haynes in

this case by engaging in discovery and preparation for trial, and the trial of this case, which commenced on March 24, 2008.


3. Mr. Haynes received a favorable verdict from the jury on March 27, 2008. Three claims were raised in the Complaint, and these claims were referred to during the trial as follows: (1) the "regarded as" having a disability claim; (2) the medical examinations claim; and (3) the qualification standards claim. In each of these claims, Mr. Haynes sought damages for back pay and emotional pain and mental anguish as a result of the City placing him on involuntary leave and terminating him. The jury's verdict was in favor of Mr. Haynes and against the City on the "regarded as" having a disability claim and the qualification standards claim, and in favor of the City of Montgomery on the medical examinations claim. The jury returned a verdict in favor of Mr. Haynes in the amount of \$90,000 for back pay and \$270,000 for mental and emotional anguish.

4. All three claims in this case involve a common core of facts and are based on related legal theories. I spent no time or virtually no time on the medical examinations claim that can be separated from work related to the other two claims. The same discovery, including interrogatories, requests for production of documents, and the deposition of Dr. Turner, were relevant to all three claims. Under these circumstances, the Plaintiff's attorney should be fully compensated for all time reasonably expended in this litigation.

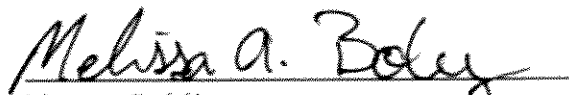
5. I have examined the hourly time records and expense records attached to Plaintiff's Motion for Attorney's Fees and Expenses filed in this case. These hourly time

records reflecting my time were made from contemporaneous time records maintained by me. Those hourly time records are a fair and accurate representation of the time actually spent by me in representing Mr. Haynes in this matter. The amount of time reflected on these time records was reasonable and necessary in representing Mr. Haynes in this matter. The expenses are likewise an accurate statement of the expenses incurred in representing Mr. Haynes in this matter. Those expenses were also reasonable and necessary in representing him in this matter.

6. The hourly rate shown on the itemization and claimed in this motion, \$250 per hour, is within the range that I normally charge to clients for legal services, including services in employment discrimination matters. I am familiar with the rates charged by attorneys in the Birmingham and Montgomery markets and the Alabama market for legal work, including employment discrimination work. The \$175 per hour amount shown for Keith Brashier is within the range that this firm normally charges to clients for his legal services. The rate of \$250 per hour for my time and \$175 per hour for Mr. Brashier's time is commensurate with the prevailing range of rates charged by attorneys with comparable experience and skill as Mr. Brashier's and mine in the Birmingham, Montgomery, and Alabama legal market for similar services.


Gerald L. Miller

Sworn to and subscribed before me this the 17th day of April, 2008.


Notary Public

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,

PLAINTIFF,

vs.

CITY OF MONTGOMERY, ALABAMA,

DEFENDANT.

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CASE NO. 2:06-cv-1093-WKW

AFFIDAVIT OF KEITH E. BRASHIER

STATE OF ALABAMA)

JEFFERSON COUNTY)

Before me, the undersigned, a notary public in and for said county and said state, personally appeared Keith E. Brashier, who, after being by me first duly sworn, did depose and state as follows:

1. My name is Keith E. Brashier. I am an associate attorney with the law firm of Redden, Mills & Clark in Birmingham, Alabama. I received my JD Degree from the University of Alabama School of Law in 2001, and I am licensed to practice to law in the State of Alabama. I have been so licensed since September 28, 2001. Additionally, I am admitted to practice in the United States Court of Appeals for the Eleventh Circuit, and the District Courts for the Northern and Middle Districts of Alabama. I have actively practiced law for over 6 ½ years. I am over 21 years of age, and I have personal knowledge of all



matters set forth herein.

2. I represented the Plaintiff, Eddie J. Haynes, in this case along with Gerald L. Miller, a partner at the firm at which I am associated. I began assisting Mr. Miller in late February, 2008 with trial preparation and I also assisted him in the trial of the case. I met with Mr. Miller several times, and I also met with Mr. Haynes. I reviewed various pleadings filed by both parties, and attended the pretrial conference. I also interviewed several witnesses over the telephone, traveled to Montgomery several times to interview witnesses in person and to serve subpoenas, and summarized notes of witness interviews. Further, I traveled to Montgomery to retrieve the juror questionnaires and to deliver the exhibit notebook to the Court. I attended trial each day beginning with voir dire, and I assisted Mr. Miller during trial. I also conducted the direct examination of several witnesses who testified on behalf of Mr. Haynes.

3. Mr. Haynes received a favorable verdict from the jury on March 27, 2008. Three claims were raised in the Complaint, and these claims were referred to during the trial as follows: (1) the "regarded as" having a disability claim; (2) the medical examinations claim; and (3) the qualification standards claim. In each of these claims, Mr. Haynes sought damages for back pay and emotional pain and mental anguish as a result of the City placing him on involuntary leave and terminating him. The jury's verdict was in favor of Mr. Haynes and against the City on the "regarded as" having a disability claim and the qualification standards claim, and in favor of the City of Montgomery on the medical

examinations claim. The jury returned a verdict in favor of Mr. Haynes in the amount of \$90,000 for back pay and \$270,000 for mental and emotional anguish.

4. All three claims in this case involve a common core of facts and are based on related legal theories. I spent no time or virtually no time on the medical examinations claim that can be separated from work related to the other two claims. The same discovery, including interrogatories, requests for production of documents, and the deposition of Dr. Turner, were relevant to all three claims. Under these circumstances, the Plaintiff's attorneys should be fully compensated for all time reasonably expended in this litigation.

5. I have examined the hourly time records and expense records attached to Plaintiff's Motion for Attorney's Fees and Expenses filed in this case. These hourly time records reflecting my time were made from contemporaneous time records maintained by me. Those hourly time records are a fair and accurate representation of the time actually spent by me in representing Mr. Haynes in this matter. The amount of time reflected on these time records was reasonable and necessary in representing Mr. Haynes in this matter. The expenses are likewise an accurate statement of the expenses incurred in representing Mr. Haynes in this matter. Those expenses were also reasonable and necessary in representing him in this matter.

6. The hourly rate shown on the itemization and claimed in this motion, \$175 per hour, is within the range that I normally charge to clients for legal services. I am familiar with the rates charged by attorneys in the Birmingham and Montgomery markets and the

Alabama market for legal work. The \$250 per hour amount shown for Mr. Miller is within the range that this firm normally charges to clients for his legal services. The rate of \$175 per hour for my time and \$250 per hour for Mr. Miller's time is commensurate with the prevailing range of rates charged by attorneys with comparable experience and skill as Mr. Miller's and mine in the Birmingham, Montgomery, and Alabama legal market for similar services.


Keith E. Brashier

Sworn to and subscribed before me this the 17th day of April, 2008.


Notary Public

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHER DIVISION

EDDIE J. HAYNES,)
Plaintiff,)
vs.) CASE NO. 2:06-cv-1093-WKW
CITY OF MONTGOMERY, ALABAMA,)
Defendant.)

Declaration of M. Wayne Sabel

My name is Wayne Sabel. I am an attorney in Montgomery, Alabama, and President of Sabel & Sabel, P.C. I have practiced in Montgomery County, and in the United States District Court for the Middle District of Alabama for twenty-six years. I have also practiced in the other federal courts in Alabama, as well as in the Fifth and Eleventh Circuit Courts of Appeal and I have been admitted to practice in the United States Supreme Court. Before I moved back to Alabama in 1982, I practiced in the State of Georgia in the state and federal courts beginning in 1968.

I am a graduate of The University of Alabama School of Law (1968, J.D.), and The University of Alabama (1965, B.A.). I am a member of the Alabama State Bar and the Georgia State Bar.

I met Gerald L. Miller through our membership in the Alabama Chapter of the National Employment Lawyer's Association. I know Mr. Miller by his excellent reputation as a top-notch attorney in the employment field.

He is known to be skilled, conscientious, responsible, and reputable.

I have reviewed a number of the filings in the above case provided by Mr. Miller. I have reviewed Mr. Miller's request for fees and supporting documents.

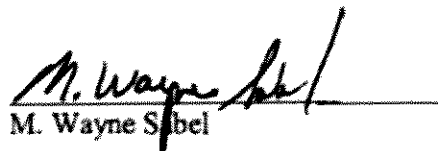
Based on my knowledge of the skill and ability of Mr. Miller, it is my opinion that the requested fee of \$250 per hour is reasonable and within the range of fees charged by attorneys in the Montgomery area for work of similar difficulty and involving statutes of similar complexity.

I have reviewed the time sheets provided by Mr. Miller. The amount of time spent on this case seems within the normal range I would expect to see on a case in federal court of this nature. Similarly, the costs and expenses seem to be reasonable.



Under penalty of perjury, I affirm that the foregoing statement is true and correct to the best of my knowledge and belief and was made based on my personal knowledge.

Signed this 17th day of April, 2008.


M. Wayne Sibel

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,)	
)	
PLAINTIFF,)	
)	
vs.)	CASE NO. 2:06-cv-1093-WKW
)	
CITY OF MONTGOMERY, ALABAMA,)	
)	
DEFENDANT.)	

DECLARATION OF JIMMY JACOBS

1. My name is Jimmy Jacobs. I am a practicing member of the Bar of the State of Alabama, with offices located at 4137 Carmichael Road, Suite 100; Montgomery, Alabama. I have been continuously engaged in the practice of law for the past 13 years. I am in good standing with the Bar, and am admitted to practice in all State and Federal courts in Alabama and the Court of Appeals for the Eleventh Circuit.

2. I have been involved in litigation of all sorts - representing both plaintiffs and defendants in domestic, commercial, and general civil litigation - but, more specifically to the purpose of this declaration, I devote more than ninety percent of my practice to litigation in employment discrimination and civil rights matters such as cases brought under 29 U.S.C. § 12101, U.S.C. § 1983, and 42 U.S.C. § 2000e. I am familiar with the standards for awarding attorneys' fees under 42 U.S.C. § 1988 and other federal statutes.



3. This declaration is executed in response to a request for information made to me by Mr. Gerald Miller who is a practicing member of the Bar of the State of Alabama with the law firm of Redden, Mills & Clark in Birmingham, Alabama. I have personal knowledge of all of the facts contained herein.

4. I am familiar with the amount of work required to litigate an action of this nature, as I have litigated such actions myself. I have reviewed the itemization of hours submitted in support of Plaintiff's Motion for Award of Attorney's Fees and Costs, including Plaintiff's counsel's affidavit. The time spent appears to be reasonable and necessary for this type of case and for attorneys with the level of skill and experience of Mr. Miller and his associate, Mr. Brashier. There does not appear to be any unnecessary duplication of effort.

5. All employment discrimination cases – particularly ADA cases – are difficult and generally require more research and labor than other litigation. The briefs in support of and in opposition to summary judgment demonstrate that ADA law is a shifting legal landscape, requiring up-to-date knowledge of statutes and cases. The results obtained for the plaintiff speak to the skill and preparation of the attorneys in representing his interests in this matter.

6. I have personal knowledge of the experience and qualifications of Mr. Miller and have received and reviewed information concerning the qualifications and experience of Mr. Brashier. Mr. Miller and I consult with each other on various cases involving our respective areas of expertise. I am familiar with the rates billed by attorneys in Montgomery, as well as attorneys from other

areas of the State, for federal cases involving comparable skill, effort and responsibility found in this case.

7. I have reviewed the affidavit and time records prepared in support of the attorney's fee request in the case against the legal standards set forth in *Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292, 1301-03 (11th Cir. 1988) and *Hensley v. Eckerhart*, 461 U.S. 424, 236, 103 S.Ct. 1933, 1941, 16 L.Ed.2d 40 (1983). I have spoken with Mr. Miller regarding the nature of the case and proceedings, including the extent of issues involved and the success achieved by the plaintiff in securing a favorable verdict on the issue of liability. In light of the relevant authority and the success achieved by the plaintiff, the hours requested by plaintiff's counsel and the hourly rate requested are reasonable.

8. It is within my knowledge that the current prevailing market rate in the Middle District for attorneys with similar skill, reputation, and experience as that of Mr. Miller is in the range of \$250.00 to \$375.00 per hour. My normal non-contingent hourly billing rate for general litigation in state court is \$275.00 per hour.

9. Based upon my years of practice and my knowledge of the prevailing market rate charged for comparable work by attorneys with similar skill, experience and reputation, the hourly rate of \$250.00 for Mr. Miller and \$175.00 for Mr. Brashier as set forth in the Petition for Attorney's Fees and Costs is not excessive, especially in the light of the results obtained as the prevailing

party in this case. In fact, the rate for Mr. Miller is on the low end of the scale for attorneys of his experience and competence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15th day of April, 2008.


JIMMY JACOBS

OF COUNSEL:

JIMMY JACOBS, LLC
4137 Carmichael Road
Suite 100
Montgomery, AL 36106
(334) 215-1788